Supreme Court, U.S.
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No. 99-

IN THE
SUPRME COURT OF THE UNITED STATES

MAY DEPARTMENT STORES
d/b/a FAMOUS BARR

Respondent,

v.

THERESA DOUTHITT

Petitioner.

Petitioner for Writ of Certiorari to the Illinois Supreme Court

---

PETITION FOR WRIT OF CERTIORARI

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Pro se

65pp

QUESTIONS PRESENTED

1. Did the Illinois Supreme Court violate Petitioner's constitutional rights to due process and equal protection that she is guaranteed by U.S. CONST. amend. XIV when it denied her Motion For Leave To File A Late Affidavit Of Intent To File A Petition For Leave To Appeal To The Illinois Supreme Court As A Matter Of Right And A Late Petition For Leave To Appeal To The Illinois Supreme Court And A Subsequent Motion To Reconsider Said Motion?

2. Is Illinois Supreme Court Rule 13 unconstitutional because it provides that an attorney may withdraw from representing a client, but it does not provide for the refunding of any prepaid attorney's fees which constitutes the taking of private property without just compensation and violates Petitioner's rights under U.S. CONST. amend. V and XIV?

PARTIES TO THE PROCEEDING

In addition to the parties named in the caption of the case, there were third-party defendants, Sharon Costa and Mark Costa. Petitioner filed third-party complaints against both attorneys who represented the Respondent in the case at bar based on alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.

STATEMENT PURSUANT TO RULE 29.6

To the best of Petitioner's knowledge, there are no parent or subsidiary companies to be listed under the provisions of Rule 29.6. Respondent, a corporation did not file a corporate disclosure statement in any of the lower courts.

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This is a petition for a writ of certiorari to review the orders in this case entered by the Illinois Supreme Court.

NO ABSTRACT WAS FILED IN APPELLATE COURT

OPINIONS BELOW

The final order of the trial court was entered in favor of Respondent-Plaintiff on April 22, 1997. Petitioner timely appealed to the Illinois Appellate Court, Fifth District on July 22, 1997.

Petitioner attempted to appeal to the Illinois Supreme Court as a matter of right or in the alternative sought leave to appeal by virtue of Illinois Supreme Court Rules 315 and 317. The Fifth Appellate Court's final order was entered on May 14, 1999. An Affidavit Of Intent To Appeal To The Illinois Supreme Court As A Matter Of Right was filed with the appellate court on July 2, 1999. Defendant filed an Illinois Supreme Court Rule 315 Motion For Leave To File A Late Affidavit Of Intent To File A Petition For Leave To Appeal To The Illinois Supreme Court As A Matter Of Right And A Late Petition For Leave To Appeal To The Illinois Supreme Court As A Matter of Right in this Court on July 2, 1999. A copy of said Motion was sent to the Fifth Appellate Court.

The Illinois Supreme Court denied said Petition For Leave To Appeal on July 13, 1999. The Illinois Supreme Court denied a Motion To Reconsider on August 20, 1999.

Therefore, Petitioner is only appealing the two aforementioned Illinois Supreme Court orders. Since a Petition For Leave To Appeal to the Illinois Supreme Court was not timely filed, she is not entitled to appeal the orders of the Appellate Court.

JURISDICTIONAL STATEMENT

The last order of the Illinois Supreme Court was filed on August 20, 1999. Jurisdiction in this Court is invoked by 28 § U.S.C. 1257. Jurisdiction in the Illinois Supreme Court is usually invoked by Illinois Supreme Court Rules 315 and 317. As stated above, the Petition For Leave to Appeal was not timely filed. Jurisdiction in the Illinois Appellate Court, Fifth District was invoked by Illinois Supreme Court Rule 303.

U.S. CONSTITUTIONAL AMENDMENTS INVOLVED

U.S. CONST. amend. V and XIV.

U.S. CONST. amend. V states as follows:

> "No person shall be held for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

U.S.CONST. amend. 14 states as follows:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein

privileges or immunites of citizens of the United States; nor shall any State deprive ant person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATUTES INVOLVED

Illinois Supreme Court Rule 13.

Illinois Supreme Court Rule 317

Illinois Supreme Court Rule 343

Illinois Supreme Court Rule 361

STATEMENT OF THE CASE

The issues in the instant case is whether the Illinois Supreme Court violated Petitioner's U.S. Const. amend. XIV rights to due process and equal protection were violated by the Illinois Supreme Court when it denied her Petition To File A Late Affidavit of Intent To Appeal To The Illinois Supreme Court As A Matter Of Right and Late Petition For Leave To Appeal and subsequent Motion To Reconsider the same. Since said Petition

was not granted, Petitioner is not entitled to argue the merits of the Fifth Appellate Court decision.

Petitioner is also challenging the Constitutionality of Illinois Supreme Court Rule 13.

FACTS

The instant case was a simple breach of contract action against Petitioner. The affirmative defenses were not as quite as simple, they were based on alleged violations of the Truth In Lending Act, 15 U.S.C. 1601 et seq. and three Illinois lending statutes. These cases are commonly called "lender liability" cases. It was a case of first impression before the trial court, it stated it did not understand the law (A-16). Petitioner would like this Court to note that the trial court made no mention at all to Petitioner's Affirmative defenses in its Judgment entered in favor of Respondent dated April 22, 1999.

Petitioner's attorney filed a motion to withdraw as counsel in August of 1996 on the premise that Petitioner was uncooperative. She buried the notice of the hearing on the withdrawal inside a thick file of an unrelated case. Petitioner learned of the hearing of the withdrawal of her attorney via telephone with the trial court clerk after the trial judge granted the motion to withdraw.

Petitioner filed a motion to reconsider the motion to withdraw. In the aforementioned motion to reconsider, Petitioner asserted that insisting that her attorney proceed with the defense she had been promised and prepaid for in full did not constitute uncooperativeness. Petitioner asserted that the facts of the case had not changed and if she had a defense when she hired her attorney, she should still have one almost a year later. Petitioner would like this Court to note that her former attorney had been an assistant district attorney and had very little experience in civil litigation. Petitioner's motion to reconsider was denied minutes before trial. Petitioner's attorney did not refund any of the money Petitioner prepaid for the case. An oral motion for a continuance made by Petitioner was denied. Petitioner, having never participated in a trial, lost when she represented herself in the instant case. Judgment was entered in favor of Respondent. Petitioner filed third-party complaints against both of Respondent's attorneys, and amended pleadings in the instant case. All of the aforementioned pleadings were stricken.

Petitioner timely appealed the instant case to the Appellate Court. The facts of the Fifth Appellate Court's order dated May 14, 1999 (A-5 to A-7) are correct except that Defendant did not fall behind on any payments. She stopped making payments all at once and attempted to contact

attorneys to file suit against plaintiff for nondisclosure fraud. Prior to Plaintiff's initiation of this suit, Defendant, by and through her former attorney, Margaret Degen, had been litigating other "lender liability" cases based on, including but not limited to, the Truth In Lending Act, 15 U.S.C. 1601 et seq.

The Appellate Court ruled that the withdrawal of Petitioner's attorney at the trial court level was proper since Petitioner had wanted her attorney to present Petitioner's legal theories concerning her defense (A-15). Petitioner asserts, to the best of her knowledge, that there is nothing in the common law record to indicate that Petitioner asked her attorney to change her legal opinion. Petitioner asserted that she wanted her attorney to present the legal opinion that her former attorney had presented at the time she was hired, at the time she filed an answer an affirmative defenses, and throughout the case for almost a year. The answer, affirmative defenses, and the memorandum filed and signed by Petitioner's former attorney clearly stated that Petitioner's defenses were bases on the Truth In Lending Act 15 U.S.C. 1601 et seq. and three Illinois lending statutes.

Further, the Appellate Court ruled that the trial court had discretion to decide whether or not the notice of the hearing on the withdrawal of Petitioner's attorney was reasonable. Petitioner

would like this Court to note that this issue was not before the trial court. Petitioner did not assert that the notice of the hearing on the motion to withdraw as counsel was unreasonable because it was buried in the middle of a file of an unrelated case until the case was in the Appellate Court. Petitioner asserted that the lack of reasonable notice on the hearing on the motion to withdraw as counsel was a constitutional issue. Petitioner asserted that the constitutional defect of unreasonable notice was not cured by the motion to reconsider her former attorney's withdrawal due to comments that the trial judge wrote in the common law record, that Petitioner did not become aware of until she viewed the common law record while it was on file in the Fifth Appellate Court of Illinois.

In Appellate Court, Petitioner filed a motion to disqualify Respondent's counsel, Sharon Costa, on the grounds that there was a conflict of interest. Sharon Costa was a third-party defendant in the same case in which she was representing the plaintiff. Said motion was denied. Petitioner filed a motion to strike Respondent's brief on the grounds that Sharon Costa used Respondent's brief to respond to for herself and the other third-party defendant when neither had filed an entry of appearance in appellate court. Said motion was denied. Petitioner filed a motion for partial summary reversal against both third-party

defendants since they had not filed appearances. Said motion was denied.

The Clerk of the Fifth District Appellate Court, Louis E. Costa is married to Respondent's counsel and third-party defendant, Sharon Costa. The Clerk of the Fifth District Appellate Court, Louis E. Costa, is also the brother of Respondent's other counsel and third-party defendant, Mark Costa.

The Appellate Court granted Appellant's Motion For Leave To Amend her brief on Constitutional issues on the same day that it entered the final order in the case (Both orders are dated May 14, 1999, A-4 to A-21). The Motion For Leave To Amend her brief on Constitutional issues was the first time Constitutional issues were raised in the instant cause. The order granting Appellant leave to amend her brief did not specify a due date; therefore, Appellant deferred to Illinois Supreme Court Rule 343 which specifies that briefs are due within 35 days. Unbeknownst to Appellant, the Appellate Court had deemed Appellant's Motion For Leave To Amend her brief on Constitutional issues as Appellant's amended brief. In essence, Appellant's Motion For Leave To Amend her brief on Constitutional issues was "taken with the case". Appellant learned that her case had been closed out before her amended brief had ever been submitted

via a telephone conversation with a lady at the Appellate Court.

By the time that Appellant learned that the instant case had been closed out before she ever submitted an amended brief which the appellate court had granted her leave to do, she was past the twenty-one day deadline for filing a Petition For Leave To Appeal To The Illinois Supreme Court. It was an oxy moron for the Appellate Court to have disposed of a case on the same day it granted Appellant leave to amend her brief, especially when no amended brief had been submitted. The two orders dated May 14, 1999 were ambiguous at best. Appellant was not able to read the minds of the Appellate Court judges to ascertain that they had taken her Motion For Leave To Amend Appellant's Brief "with the case." The Appellate Court had issued a previous order on another motion that stated the motion was "taken with the case"; therefore, Appellant knew what "taken with the case" meant. Appellant was denied her U.S. CONST. amend. XIV right to due process which includes notice of the disposition of the case in the Appellate Court.

Further, since the Appellate Court closed out the case before Appellant submitted her amended brief on Constitutional issues, Appellant was denied due process of law which is guaranteed by U.S. CONST. amend. XIV because she was not afforded

an opportunity to fully brief her Constitutional issues.

Still further, the Appellate Court ruled on the instant case on the same day it granted Appellant leave to amend her brief on Constitutional issues. Therefore, Appellant asserts that she did not receive due process of law because it appears that the Appellate Court had already made its decision to rule against Appellant before going into the hearing. If the Appellate Court had not already made its decision to rule against Appellant, in all likelihood, it would have afforded Appellee an opportunity to respond to its decision to allow the amended brief to be filed (As stated above, no amended brief was filed, but Appellant learned via telephone that her Motion For Leave To Amend her brief had been taken as her brief.) Therefore, Appellant was denied due process of law because the Appellate Court seemed to have predetermined its decision before the final hearing.

Appellant filed a Motion For Leave To File A Late Affidavit Of Intent To File A Petition For Leave To Appeal And A Late Petition For Leave To Appeal to the Illinois Supreme Court that was denied on July 13, 1999, the Motion To Reconsider was denied August 20, 1999.

SUMMARY OF REASONS FOR GRANTING THIS PETITION

Petitioner, Theresa Douthitt, pro se herein, appeals to the United States Supreme Court from an order entered by the Illinois Supreme Court denying her Motion For Leave To File A Late Affidavit Of Intent To File A Petition For Leave To Appeal To The Illinois Supreme Court As A Matter Of Right And A Late Petition For Leave To Appeal To The Illinois Supreme Court As A Matter Of Right and a subsequent order denying the Motion To Reconsider said motion. New constitutional questions were injected into the instant case as a result of the Fifth Appellate Court's order dated May 14, 1999. Therefore, by virtue of Illinois Supreme Court Rule 317, Appellant had a right to appeal to the Illinois Supreme Court as a matter of right.

The Illinois Supreme Court denied Petitioner due process of law as guaranteed by U.S. CONST. amend. XIV because it refused to grant her Motion For Leave To File A Late Petition For Leave To Appeal which was premised on the fact that part of the Fifth Appellate Court's final disposition of the case was an oxy moron (discussed in depth in "The Facts") because it granted Petitioner leave to amend Appellant's brief on the same day it finally disposed of the case when no amended brief had been submitted. A reasonably prudent person would not

expect a case to be finally disposed of when an amended brief had not been submitted, it is common sense. Petitioner is not a mind reader and should not have been expected to know that the Fifth Appellate Court took her Motion For Leave To Amend her brief on Constitutional issues as her brief (Petitioner learned that the Appellate Court took her motion as her brief via a telephone conversation with a lady who worked in the Fifth Appellate Court after the deadline for filing a Petition For Leave To Appeal to the Illinois Supreme Court.).

In her Motion For Leave To File A Late Affidavit Of Intent To Appeal And Petition For Leave To Appeal To The Illinois Supreme Court, Petitioner asserted that the discovery rule should be applied in the instant case. Petitioner asserted that the time to file a petition for leave to appeal should not have started to run until she learned that her case had been finally disposed of in the Appellate Court via a telephone conversation on June 11, 1999. The discovery rule has been used in Illinois to allow partied to file cases past the usual statute of limitations when a party did not know he had a cause of action. See Koelle v. Zwiren, 248 Ill.App.3d 778, 220 Ill.Dec. 51, 672 N.E.2d 868, 875 (Dist. 1 1996). By the same analogy, the discovery rule should have been applied in the instant case. Petitioner's time to file a petition for

leave to appeal to the Illinois Supreme Court should not have started to run until June 11, 1999, the date Petitioner learned that the Fifth Appellate Court had completely disposed of her case.

To reiterate the facts, the Fifth Appellate Court granted Petitioner's Motion For Leave To Amend Appellant's brief on Constitutional issues on the same day that it entered a final order in the case (Both orders are dated May 14, 1999, A-4 to A-21). The order granting Petitioner leave to amend her brief did not specify a due date; therefore, Petitioner deferred to Illinois Supreme Court Rule 343 which specifies that briefs are due within 35 days. Unbeknownst to Petitioner, the Fifth Appellate Court had deemed Petitioner's Motion For Leave To Amend her brief on Constitutional issues to be Petitioner's amended brief. In essence, Petitioner's Motion For Leave To Amend her brief on Constitutional issues was "taken with the case." The first brief Petitioner submitted to the Fifth Appellate Court was stricken because it was not in proper brief format which was required by the Illinois Supreme Court Rules. Petitioner's Motion For Leave To Amend her brief on Constitutional issues was not in the proper brief format required by the Illinois Supreme Court Rules, and it was clearly labeled "Motion". Therefore, Petitioner had no idea that the Fifth Appellate Court deemed her Motion to be her Amended Brief until the time to file a

Petition For Leave To Appeal To The Illinois Supreme Court had lapsed. Petitioner learned that her case had been closed out before her Amended Brief had ever been submitted via a telephone conversation with a lady who worked at the Fifth Appellate Court on June 11, 1999.

By the time Petitioner learned that the instant case had been finally disposed of before she ever submitted an Amended Brief which the Fifth Appellate Court had granted her permission to do, she was past the 21-day deadline for filing a Petition For Leave To Appeal To The Illinois Supreme Court. It is an oxy moron for the Fifth Appellate Court to have finally disposed of the instant case on the same day it granted Petitioner leave to amend her brief, especially when no amended brief had been submitted. The two orders dated May 14, 1999 were ambiguous at best. It is easy to see how an attorney could be confused by the two orders, let alone a *pro se* litigant such as Petitioner. Petitioner was denied her U.S. CONST. amend. XIV right to due process which includes notice of the disposition of the case in the Fifth Appellate Court. "Opportunity to be heard which is a fundamental requirement of due process requires reasonable notice so that the parties may be afforded an opportunity to present their objections. See Van Harken v. City of Chicago, 906 F. Supp. 1182 (N.D.Ill. 1995), *affirmed as modified* 103 F.3d

1346, *certiorari denied* 117 S.Ct. 1846, 520 U.S. 1241, 137 L.Ed. 2d 1049 and Swing v. American Federation of Labor, 22 N.E.2d 857 (1939), 372 Ill. 91, *certiorari denied* 60 S.Ct. 514, 309 U.S. 659, 84 L.Ed. 1007, *certiorari granted* 60 S.Ct. 1081, 310 U.S. 620, 84 L.Ed. 1393, *reversed on other grounds*, 61 S.Ct. 568, 312 U.S. 321, 85 L.Ed. 855, *rehearing denied*, 61 S.Ct. 735, 312 U.S. 715, 85 L.Ed. 1145. Petitioner was further denied due process when the Illinois Supreme Court refused to cure the Constitutional defect of lack of unambiguous notice of the disposition of the case when it denied Petitioner's Petition For Leave To File A Late Affidavit Of Intent To Appeal To The Illinois Supreme Court As A Matter Of Right And Late Petition For Leave To Appeal To The Illinois Supreme Court As A Matter Of Right.

Illinois Supreme Court Rule 315 allows for the late filing of Petitions for leave to appeal under "the most extreme and compelling circumstances". Under the circumstances in the instant case, the Illinois Supreme Court should have granted Petitioner leave to file a late affidavit of intent to appeal and a late petition for leave to appeal. The Illinois Supreme Court has granted other Petitions for leave to file a late petition for leave to appeal. See People v. Raso, 153 Ill.2d 567, 624 N.E.2d 814, 191 Ill.Dec. 626 (1993); People v. Raso, U.S. District Court, N.D. Illinois, Eastern Division,

Cause No. 94 C 2009 (1995); People v. Lowther, 85 Ill.App.3d 735, 407 N.E.2d 1038, 41 Ill.Dec. 540; and People v. Sultan, 121 Ill.2d 583, 523 N.E.2d 547, 119 Dec. 791 (IL S.Ct. 1988).

To paraphrase the court in Cronnon v. Alabama, 557 F.2d 472 (C.A. 5th Cir. 1977) *appeal after remand*, 587 F.2d 246, *cert. Denied*, 99 S.Ct. 1542, 440 U.S. 974, 59 L.Ed. 792 (C.A. 5th Cir. 1979), when a proceeding is unduly unfair, a party may always assert that he has been denied his U.S. Constitutional rights to due process. It was unfair for the Illinois Supreme Court to deny Petitioner's Motion For Leave To File A Late Affidavit Of Intent To File A Petition For Leave To Appeal To The Illinois Supreme Court As Matter Of Right and subsequent denial of Motion To Reconsider The Denial Of Said Motion. In doing so, the Illinois Supreme Court held Petitioner to a mind reading standard which is a supernatural standard. Therefore, the proceedings were unduly unfair and the above-entitled cause should be reversed and remanded. See Id.

"A state's sovereignty is not absolute. State power can only be exercised against a person within the confines of due process of law drawn by its procedural and substantive aspects." U.S. CONST. amend. XIV, Aldens, Inc. v. La Follette, 552 F.2d 745, *cert. Denied*, 98 S.Ct. 236, 434 U.S. 880, 54 L.Ed.2d 161 (C.A. Wis. 1977). The state of Illinois

exceeded the "confines of due process of law" in the instant case; therefore, the above-entitled case should be reversed and remanded. See Id.

"Whatever disagreements there may be in our jurisprudence as to the scope of the phrase 'due process of law,' there is no dispute that it minimally contemplates the opportunity to be fully and fairly heard before an impartial decision maker." Hall v. Harker, 82 Cal. Rptr.2d 44, 47 (1999). (Citation omitted.) Deprivation of the right to a fair trial is reversible error. See Pavino v. Pavino, 18 Ill.Dec. 46, 377 N.E.2d 199, 200 (1978).

Petitioner timely filed a subsequent Petition For Leave To Appeal an unrelated case to the Illinois Supreme Court. In said Petition, Petitioner asserted that she was denied equal protection of the law as guaranteed by U.S. CONST. amend. XIV because the Fifth Appellate Court consistently held her, a *pro se* litigant, to a higher standard than an attorney. Specifically, Petitioner asserted that the Fifth Appellate Court had "spoon fed" an attorney by sending her a letter with detailed instructions on what to do, the consequences of her failure to follow those instructions, and allowed an attorney to skirt due dates for briefs when it had not shown the same courtesy to Petitioner, a *pro se* litigant. Since then, the Illinois Supreme Court has "spoon fed" Petitioner in the subsequent nonrelated case by sending her detailed instructions on how to file a

motion in the Illinois Supreme Court and a copy of the pertinent statutes, Illinois Supreme Court Rules 315 and 361 (A-26, 27). Petitioner was not shown the same courtesy in the instant case when it was before the Illinois Supreme Court. At no time did the Illinois Supreme Court send Petitioner detailed instructions or a copy of the pertinent statutes when she filed motions in the instant case when it was before the Illinois Supreme Court.

After Petitioner pointed out in her Petition For Leave To Appeal To The Illinois Supreme Court concerning a subsequent unrelated case that the Fifth Appellate Court had subjected her to disparate treatment, the Illinois Supreme Court took more time to rule on her motion in the subsequent unrelated case, and the Illinois Supreme Court gave Petitioner detailed instructions on how to file a motion and a copy of the pertinent statutes on motions. The treatment Petitioner was subjected to in the two unrelated cases she submitted to the Illinois Supreme Court was dramatically different, which is prima facie evidence that Petitioner's right to equal protection was violated. The instant case is a breach of contract case, and the subsequent case is a family law case. There is no apparent reason for the Illinois Supreme Court to have treated the two cases differently. Therefore, due to the Illinois Supreme Court's turnabout after Petitioner asserted in her Petition For Leave To Appeal to the Illinois

Supreme Court in the subsequent unrelated case that she had been denied equal protection by the Fifth Appellate Court, it may be inferred that the Illinois Supreme Court noticed that it, too, had treated Petitioner differently than it had treated attorneys and decided to cure that defect in Petitioner's subsequent Petition For Leave To Appeal that Petitioner filed in the subsequent unrelated case. Therefore, Petitioner asserts that she was denied equal protection of the laws by the Illinois Supreme Court in the instant case.

The U.S. CONST. guarantees every citizen the right to equal protection of the laws, and different classes of individuals should not be subjected to disparate treatment. See M.L.B. v. S.L.J., 117 S.Ct. 555 (U.S.S.Ct. 1996) and U.S. CONST. amend. XIV. Further, A.B.A. Code of Judicial Conduct, Canon 3 requires that judges treat all litigants equally.

In essence, the Illinois Supreme Court rules that the Fifth Appellate Court can mince words (state that it granted an Appellant leave to amend when it actually took Petitioner's motion "with the case") and rule inconsistently (The Appellate Court struck Petitioner's first brief because it was not in proper brief format according to Illinois Supreme Court Rule 343, yet it took Petitioner's Motion that was clearly labeled "Motion" and was not in proper brief format according to Illinois Supreme Court

Rule 343 as her brief.), yet a *pro se* litigant will be held to the letter of the law and be forced to comply with the time limitation for filing petitions for leave to appeal. Petitioner should not be held to a higher standard than a judge. U.S. CONST. amend. XIV.

It also rises to the level of deprivation of a fair hearing which violates due process of law. See Hall v. Harker, 82 Cal. Rptr.2d 44, 47 (1999) (Citation omitted.); Pavino v. Pavino, 18 Ill.Dec. 46, 377 N.E.2d 199, 200 (1978). (Deprivation of right to a fair trial is reversible error.); In re Marriage of Korte, 193 Ill.App.3d 243, 549 N.E.2d 906, 140 Ill.Dec. 255 (Ill.App.Ct. Dist. 4 1990) (Destruction of vital evidence prevents a party from receiving a fair trial.); and U.S. CONST. amend. XIV.

In Hughes v. Rowe, 449 U.S. 5, 9 (U.S.S.Ct. 1980), referring to *pro se* litigants, this Court held, "[i]t is settled in law that the allegations of a complaint, 'however inartfully pleaded' are held to a less stringent standard than formal pleadings drafted by lawyers." (Citations omitted.) Defendant requests that this Court show her more deference than an attorney in light of the U.S. Supreme Court ruling that *pro se* litigants are held to a lessor standard than attorneys. See Id. Under the doctrine of stare decisis, a U.S. Supreme Court ruling trumps the ruling of any other court. Further, in Mount v. Book of the Month Club, Inc., 555 F.2d 1108, 1112 (U.S.Ct. App. 2nd Cir. 1977), the court held, "[b]ut

plaintiff, though obviously intelligent and articulate, is still a layman representing himself and as such is entitled to certain liberality with respect to procedural requirements." Also, the country has a compelling interest in keeping access to the courts open to litigants who are not attorneys, which translates to justice for all. Therefore, Petitioner requests that this Court show her more deference than it would give to an attorney.

In the Fifth Appellate Court's order dated May 14, 1999, Petitioner was granted leave to amend her brief on constitutional issues (A-20, 21). In another order dated the same day, May 14, 1999, the Fifth Appellate Court issued its final order (A-4, 19). Petitioner was not afforded an opportunity to fully brief her Constitutional issues. Constitutional issues may be brought up at any time, and are not waived. See Belfield v. Coop, 8 Ill.2d 293, 134 N.E. 2d 249, 259 (IL S.Ct. 1956). The aforementioned defect was not cured by the Illinois Supreme Court. Petitioner should have been granted leave to file a late affidavit of intent to appeal and a late petition for leave to appeal to the Illinois Supreme Court to fully brief the Constitutional issues that the Fifth Appellate Court's order dated May 14, 1999 allowed.

Still further, the Fifth Appellate Court ruled on the instant case on the same day it granted Petitioner leave to amend her brief on Constitutional

issues. Therefore, Petitioner asserts that she did not receive due process of law because it appears that the Fifth Appellate Court had already made its decision to rule against Appellant before going into the hearing. If the Appellate Court had not already made its decision to rule against Appellant, in all likelihood, it would have afforded Respondent-Appellee an opportunity to respond to its decision to allow the amended brief to be filed (As stated above, no amended brief was filed, but Petitioner learned via telephone that her Motion For Leave To Amend her brief had been taken as her brief.) Therefore, Petitioner was denied due process of law because the Fifth Appellate Court seemed to have predetermined its decision before the final hearing.

"Whatever disagreements there may be in our jurisprudence system as to the scope of the phrase 'due process of law,' there is no dispute that it minimally contemplates the opportunity to be fully and fairly heard before an impartial decision maker." Hall v. Harker, 82 Cal.Rptr.2d 44, 47 (1999). (Citation omitted.) (Deprivation of right to a fair trial is reversible error.) See Pavino v. Pavino, 18 Ill. Dec. 46, 377 N.E.2d 199, 200 (1978); In re Marriage of Korte, 193 Ill.App.3d 243, 549 N.E.2d 906, 140 Ill.Dec. 255 ((Ill.App.Ct. Dist. 4 1990). (Destruction of vital evidence prevents a party from receiving a fair trial.) The above-entitled cause has yet to be fully and fairly heard before the tribunal.

Further, Petitioner was not afforded an opportunity to fully brief her Constitutional issues because the Fifth Appellate Court issued its final order on the same day it granted her leave to amend her brief on Constitutional issues. Constitutional issues may be brought up at any time, and are not waived. See Belfield v. Coop, 8 Ill.2d 293, 134 N.E. 2d 249, 259 (IL S.Ct. 1956).

One of the Constitutional issues Petitioner was going to assert in her amended brief was that Illinois Supreme Court Rule 13 is unconstitutional because it provides that an attorney may withdraw from representing a client, but it does not provide for the refunding of any prepaid attorney's fees which constitutes a taking of private property without just compensation and violates Petitioner's rights under U.S. CONST. amend. V and XIV. Petitioner asserts this issue now.

At the trial court level, Petitioner's attorney was allowed to withdraw by virtue of Illinois Supreme Court Rule 13. Petitioner prepaid her former attorney's legal fees for the instant case in full which covered the entire trial. Petitioner asserted to the trial judge that she had prepaid the attorney, but the trial court judge did not order the refund any of legal fees to Petitioner.

Illinois Supreme Court Rule 13 gives a court the authority to interfere with attorney-client contracts to protect attorneys and the legal system.

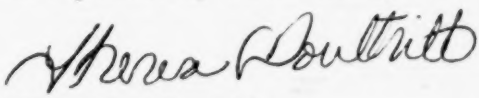
It is intended to benefit the legal system. However, Illinois Supreme Court Rule 13 does not provide that an attorney shall refund all prepaid legal fees to his or her client. Petitioner had a property interest in her attorney's representation of her. The court's order allowing Petitioner's attorney to withdraw was a taking of her property without just compensation to Petitioner. Any governmental taking of private property for the good of the public without just compensation whether legislative or judicial is a violation of U.S. CONST. amend. V and XIV. U.S. CONST. amend. V and XIV.

When a client has prepaid his or her legal fees, Illinois Supreme Court Rule 13 is so completely one-sided in favor of attorneys that it is unconscionable. A client is thrust into the legal system without his or her money that he prepaid an attorney, and the attorney is allowed to walk away without doing any more work, thus not earning said money. It constitutes taking from one class of individuals and giving to another class. There could be no clearer argument for unconstitutionality. It is repugnant to the United States Constitution.

CONCLUSION

For the foregoing reasons, the above-entitled cause should be reversed and remanded to the Illinois Supreme Court.

Respectfully submitted,



Theresa Douthitt
PO Box 700346
Oklahoma City, OK 73107
405/575-8031
Pro se

APPENDIX

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT

JACKSON COUNTY, ILLINOIS

MAY DEPARTMENT STORES d/b/a FAMOUS BARR, a corporation,	)	Filed 97APR22 A.M. 9:26
Plaintiff,	)	Civil action No. 5-97-0540
v.	)	
THERESA DOUTHITT,	)	
Defendant.	)	

JUDGMENT

This matter coming on to be heard upon the complaint filed by plaintiff and the response thereto filed by defendant and the plaintiff being present in open Court by and through its attorney, SHARON S. COSTA, and the defendant, THERESA L. DOUTHITT, being present in open Court, pro se, and the Court having heard sworn testimony and having examined the pleadings herein and being fully advised in the premises, finds as follows:

1. Defendant, Theresa L. Douthitt, had two charge accounts with

May Department Stores, d/b/a/ Famous Barr.

2. Defendant, Theresa L. Douthitt, acknowledged that she used the

charge privileges and received merchandise including clothes, jewelry and purses.

3. Defendant, Theresa L. Douthitt, acknowledged that she kept the

merchandise, received monthly bills from the plaintiff and did not dispute the bills but she did not pay the bills.

4. Plaintiff's witnesses, an accountant in plaintiff's account recovery

Department, testified that plaintiff is a corporation organized in the State of New York with authority to transact retail sales in the States of Illinois and Missouri.

5. Plaintiff's witness explained the billing system, the lawful rate of

interest, the charges to defendant's account, and the balance remaining unpaid on the two accounts, none of which was controverted by defendant.

6. Exhibits were introduced by plaintiff consisting of the month-to-

Month activity on the two accounts. Defendant acknowledged that she received these statements. None of the exhibits were objected to by the

defendant nor any evidence introduced by her disputing any of the entries on said exhibits.

7. Plaintiff's Exhibit #1 shows a balance due from defendant to

plaintiff in the amount of $2,089.89, which remains unpaid after demand by plaintiff to defendant.

8. Plaintiff's Exhibit #2 shows a balance due from defendant to

plaintiff in the amount of $4,074.33, which remains unpaid after demand by plaintiff to defendant.

IT IS ORDERED that plaintiff, MAY DEPARTMENT STORES, d/b/a FAMOUS BARR, be and it hereby is awarded judgment against the defendant, THERESA L. DOUTHITT, in the amount of Six thousand One Hundred Sixty-Four and 22/100 Dollars ($6,164.22) plus cost of suit expended herein.

IT IS FURTHER ORDERED that all pleadings except for her closing, be and hereby are stricken and that the plaintiff's request for sanctions against defendant be denied.

ENTER: April 22, 1997

s/ Thomas Jones
HON. THOMAS JONES

NOTICE

The text of this order may be changed or corrected prior to the time for filing of a Petition For Rehearing or the disposition of the same.

Filed
May 14, 1999
Louis E, Costa
Clerk, Appellate Court, 5th Dist.

No. 5-97-0540

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

MAY DEPARTMENT STORES d/b/a FAMOUS BARR,	)	Appeal from the Circuit Court of Jackson County.
Plaintiff-Appellee,	)	
v.	)	No. 95-LM-253
THERESA DOUTHITT,	)	

Defendant-Appellant.)

RULE 23 ORDER

Defendant, Theresa Douthitt, appearing *pro se*, appeals from a money judgment entered against her in favor of plaintiff, May Department Stores doing business as Famous Barr. On appeal, defendant raises 14 issues, which can be summarized as follows: (1) the trial court erred in denying defendant's motion to dismiss or, alternatively, to make more definite and certain, (2) the trial court erred in ruling on defendant's various motions, (3) the trial court erred in its various rulings on her affirmative defenses, both those filed with her answer and those filed the day of trial, and in striking her counterclaim and third-party complaints, (4) the court erred in granting her attorney's motion to withdraw as counsel before defendant's bench trial, (5) the court misunderstood and misapplied the law, and (6) the court's judgment was against the manifest weight of the evidence.

FACTS

she began to fall behind in her minimum payments on the cards. At the end of 1994, defendant stopped paying on the credit cards altogether. Plaintiff filed a complaint against defendant to collect on her delinquent credit card accounts on August 10, 1995.

Defendant hired an attorney, who initially filed a motion to dismiss or to make more definite and certain pursuant to section 2-615 of the Civil Practice Law (735 ILCS 5/2-615 (West 1994)). This motion alleged that plaintiff's complaint was insufficient because it failed to attach to the complaint the contract upon which the cause of action was based. The court denied this motion. Subsequently, defendant filed her answer and four affirmative defenses. Defendant's attorney filed a motion to withdraw on September 9, 1996, which was granted on October 15, 1996.

On October 31, 1996, defendant, appearing *pro se*, filed a motion to reconsider the court's order allowing the withdrawal of her attorney, and on November 6, 1996, she filed a "Motion for Leave".

Plaintiff's complaint was called for hearing on November 25, 1996, as were defendant's two *pro se* motions previously filed. That same day, defendant filed the following documents: an entry of appearance and affirmative defenses, a notice of intent to use usury as a defense, a counterclaim, and two third-party complaints, one against Sharon Costa and one against Mark Costa, plaintiff's

attorneys in this collection action. The court refused defendant's documents. Defendant resubmitted the same documents on December 26, 1996, in conjunction with defendant's written closing argument. The court struck defendant's documents.

In a written judgment entered on April 23, 1997, the trial court held that defendant owed plaintiff $2,089.89 on one account and $4,074.33 on the other, for a total judgment of $6,164.22. Defendant appeals.

ANALYSIS

1. Motion to dismiss.

The standard of review for ruling on a section 2-615 motion to dismiss is *de novo*. *Jackson v. Michael Reese Hospital & Medical Center*, 294 Ill. App. 3d 1 (1997). A reviewing court does not consider the merits of the case but considers whether the complaint sufficiently states a cause of action. *Jackson*, 294 Ill. App. 3d at 9. A motion to dismiss for the failure to state a cause of action should only be granted when no set of facts can be proved under the pleadings that would entitle plaintiff to relief. *Abels v. Safeway Insurance Co.*, 283 Ill. App. 3d 1 (1996). On a review of a ruling on a motion to dismiss, this court accepts all of the plaintiff's well-pleaded facts as true but does not

accept conclusions of law or fact. *Abels*, 283 Ill. App. 3d at 5. A court's ruling on a motion to dismiss will be affirmed on any ground warranted by the record, regardless of whether it was relied on by the court and regardless of whether the reason given by the court was correct. *Burley v. On The Waterfront, Inc.*, 228 Ill. App. 3d 412 (1992). Here, defendant contends that the trial court erred in denying her motion to dismiss because plaintiff failed to attach the contract upon which its claim rested, as required by section 2-606 of the Civil Practice Law (735 ILCS 5/2-606 West 1994)). Defendant claims that her original application for the credit card agreement should have been attached to plaintiff's complaint. She argues that the court found that section 2-606 does not require a contract to be attached if the pleader attaches an affidavit to the pleadings stating that the instrument is inaccessible, and she argues that the record does not support the court's finding.

As defendant asserts, section 2-606 requires a written instrument that forms the basis of the claim to be attached to the pleadings. 735 ILCS 5/2-606 (West 1994)). In this case, plaintiff attached to its complaint a disclosure statement, to which were attached numerous copies of statements of defendant's credit accounts, which had regularly sent to defendant since September 1993. The statements of defendant's credit card accounts

reflect purchases made by defendant, credit for payments and returns, previous balances, the annual percentage rate, the monthly periodic rate, and the payment due.

In response to defendant's motion to dismiss, plaintiff submitted a memorandum of law, to which it attached two documents: "Famous Barr Open-End Credit Plan and Security Agreement" and a notice setting forth defendant's billing rights. The effective date of these documents was January 1992. The statements attached to plaintiff's complaint were in accord with these documents. Plaintiff also attached one credit card transaction receipt, signed by defendant, as an example of the receipts executed each time defendant used her credit card.

A contract for credit card obligations is not formed when a credit card is issued, but a separate contract is formed each time the credit card is used. *Garber v. Harris Trust & Savings Bank*, 104 Ill. App. 3d 675 (1982). The issuance of a credit card is simply an offer to extend credit. *Garber*, 104 Ill. App. 3d at 680. A cardholder "agreement" is not the contract because mutuality is lacking, for a credit card holder is not obligated to use the card and neither party is bound by the "agreement." *Garber*, 104 Ill. App. 3d at 681. A credit card agreement can be terminated at any time and can be modified at will. *Garber*, 104 Ill. App. 3d at 681.

Here, plaintiff attached defendant's monthly statements of her use of the credit cards. The statements set forth the purchases made and the date purchased. The statements summarized the separate contracts made each time the defendant used her credit card. Defendant did not deny she made the purchases or claim that the amounts of the purchases were wrong. Therefore, plaintiff attached the contract to the complaint, and the court was correct in not dismissing plaintiff's complaint, even though its rationale on this issue differs from our reasoning here.

2. Motion for leave.

Defendant argues that the court erred in not granting her "Motion For Leave." Initially, we note that defendant fails to cite authority supporting her argument and fails to assert a coherent argument, in violation of Supreme Court Rule 341(e)(7)(Official Reports Advance Sheet No. 13 (June 18, 1997), R. 341(e)(7), effective July 1, 1997). The failure to cite relevant authority or assert a coherent argument waives the consideration of the issue. *Britt v. Federal Land Bank Ass'n of St. Louis*, 153 Ill. App. 3d 605 (1987). In any event, our review of defendant's motion reveals that she reiterates several facts but that she asks for no relief. The court did not err in denying defendant's motion because the motion lacked an appropriate prayer for relief.

3. Affirmative defenses filed before trial.

Defendant contends that the court should have deemed the affirmative defenses filed with her answer as admitted because plaintiff did not answer the affirmative defenses. Defendant also contends that the affirmative defenses filed with her answer were "sufficient in law" to warrant a judgment in her favor.

In the four affirmative defenses filed with defendant's answer defendant contends that plaintiff "failed to comply with the disclosure requirements" of the Truth in Lending Act (15 U.S.C. § 1601 et seq. (1988)), the Credit Card Issuance Act (815 ILCS 140/0.01 (West 1994)), the Interest Act (815 ILCS 205/0.01 (West 1994)), and the Retail Installment Sales Act (815 ILCS 405/1 et seq. (West 1994)). Defendant did not assert any facts to show how plaintiff violated these statutes or which specific statutes were violated. Her affirmative defenses only set forth general conclusions.

The failure to answer an affirmative defense results in an admission of the defense, but only the facts alleged are deemed to be admitted. *Andrews v. Cramer*, 256 Ill. App. 3d 766 (1993). Further, section 2-613(d) requires that the facts of an affirmative defense must be set forth in an answer to a complaint; otherwise the affirmative defense is insufficient. 735 ILCS 5/2-613(d) (West 1994); Richco Plastic Co. IMS Co., 288 Ill. App. 3d 782

(1997). Since defendant failed to allege any facts in her affirmative defenses, her affirmative defenses were not sufficient to warrant a judgment in her favor.

4. Striking defendant's affirmative defenses, counterclaim, and third-party complaints.

Defendant next contends that the court erred in striking her affirmative defenses, her counterclaim, her notice of intent to use usury as a defense, and her third-party complaints against the Costas. Again, defendant asserts that various statutory acts were violated, and she refers to the entire acts, but she neither gives facts to support her conclusions nor cites specific statutory sections that were violated.

The review of the striking of a pleading as being substantially insufficient is *de novo*. *Richco Plastic Co.*, 288 Ill. App. 3d at 784. Because defendant did not plead any facts in her affirmative defenses, in her counterclaim, or in her third-party complaints, the court did not err in striking these documents.

With regard to defendant's notice of intent to use usury as a defense, defendant appears to argue that her credit card statements listed her annual percentage rate as 21.6%, but that when the 1.8% monthly periodic rate is multiplied by 12, this results in an annual percentage rate of 23.872%. Defendant's document is mathematically incorrect,

for when 1.8% is multiplied by 12, the annual rate is 21.6%. Therefore, the court did not err in striking this document, for it was not factually sufficient to support the defense of usury.

5. Court erred in allowing defendant's attorney to withdraw.

Defendant contends that the court erred in allowing her attorney to withdraw her representation, because defendant had paid her counsel in full, defendant was promised a valid defense, and her attorney withdrew so close to the time of trial. In her initial brief, defendant fails to cite relevant authority to support her argument, a violation of Supreme Court Rule 341(e)(7)(Official Reports Advance Sheet No. 13 (June 18, 1997), R. 341(e)(7), effective July 1, 1997). The failure to cite relevant authority does not merit the consideration of the issue on appeal. *Britt*, 153 Ill. App. 3d at 608. In defendant's March 30, 1999, amendment to her brief, she contends that she did not receive "reasonable" notice of the hearing on her attorney's motion to withdraw. Defendant argues that the lack of notice of the hearing on her attorney's motion to withdraw is a constitutional issue, i.e., that she was deprived of a property right without due process of law, and that the violation of the notice provision invalidates the court's order allowing her attorney's motion to withdraw.

The common law record indicates that defendant's attorney sent defendant by certified mail notice of the motion and of the hearing on the motion. Defendant, in the amendment to her brief, states that she was sent the notice, but claims it was in the "middle" of another separate case in which the same attorney represented her and also withdrew. Defendant claims that this is not "reasonable" notice, tantamount to no notice. Here, defendant was given notice, and she has not unqualifiedly proved that she did not receive notice as she alleges in the amendment to her brief. In defendant's motion to reconsider the court's order on her attorney's motion to withdraw, defendant did not claim that she failed to attend the motion hearing because of a lack of notice but she "was unable to appear at said Motion hearing." This conflicts with defendant's present claim she failed to attend because she received no notice. Further, the common law record reveals that defendant's attorney did send her by certified mail notice of the motion to withdraw. Defendant was given sufficient notice of the motion to withdraw.

Whether notice of the withdrawal was given and whether withdrawal should be allowed are matters left to the sound discretion of the trial court. *Customer Builders, Inc. v. Clemons*, 52 Ill. App. 3d 399 (1977). Defendant argued in her motion to reconsider that her attorney should not be allowed to

withdraw because she paid her attorney "a flat fee" and that her attorney initially told defendant she had a valid defense. Defendant stated in her motion to reconsider "[t]hat Defendant's insistence upon a valid defense which she had been promised and has paid for does not constitute a lack of cooperation." Therefore, defendant asked the court to reconsider its order allowing defendant's attorney to withdraw. As was true of the *pro se* litigant in *Customer Builders, Inc.*, it is clear that defendant herein wanted her theory of defense presented regardless of its legal merits, and this is not a sufficient reason for an attorney to continue to represent a defendant. *Custom Builders, Inc.*, 52 Ill. App. 3d at 403.

It is also noteworthy that defendant's motion to reconsider was filed 15 days after the court's order was entered, indicating that defendant received the order. Further, the order allowing defendant's attorney to withdraw was entered on October 15, 1996, but trial did not occur until November 25, 1996. This time period gave defendant sufficient time to obtain new counsel. The trial court did not abuse its discretion in granting defendant's attorney's motion to withdraw.

6. Court erred in denying her motion to continue.

During the middle of the bench trial, defendant made an oral motion to continue. The court denied this motion. Defendant now appeals

this ruling. Again, defendant cites not relevant authority to support her argument, in violation of the supreme court rules. The failure to cite relevant authority waives consideration of the issue. *Britt*, 153 Ill. App. 3d at 608.

7. Court misapplied and misunderstood the case.

Defendant claims that the court, in another case, stated it did not understand defendant's various documents, similar to the documents filed by defendant in this case at the time of trial and after trial. She claims that "jurisprudence" could not be reached because of the trial court's lack of understanding. Defendant fails to cite relevant authority to support her argument, so we decline to consider this issue. *Britt*, 153 Ill. App. 3d at 608.

8. Court erred in enforcing an illegal contract.

Defendant's argument on this issue refers this court to her prior argument regarding her affirmative defenses. Defendant also argues that her affirmative defenses assert that the contract between plaintiff and defendant is illegal. In conjunction with this issue, we also consider defendant's contention that she was entitled to recover double interest, costs, attorney fees, and a statutory penalty based upon her affirmative defenses. We, too, refer defendant to our resolution of her issues regarding her affirmative defenses. The affirmative defenses

lacked facts and specific statutory references; therefore, her affirmative defenses failed to establish that the contract between plaintiff and defendant was illegal or that defendant was entitled to recover double interest, costs, attorney fees, or a statutory penalty.

9. Judgment against the manifest weight of the evidence.

Defendant also asserts that the judgment was not "valid" because it "contradicts the pleadings and the record." Essentially, we take this to mean that the judgment was against the manifest weight of the evidence.

In the record on appeal, the common law record has been submitted, but there is not transcript of any of the proceedings. Without a transcript, we cannot review this issue. It is appellant's duty to provide a complete record on appeal sufficient to resolve the issues presented. *EDN Real Estate Corp. v. Marquette National Bank*, 263 Ill. App. 3d 161 (1994). Without a complete record, we must presume that the judgment of the trial court conformed with the law and had a sufficient factual basis.

10. Motion filed on appeal.

Defendant filed a motion for partial summary judgment in this court, which was ordered to be taken with the case. In her motion for partial summary reversal, defendant contends that she is

entitled to a partial summary judgment against her attorneys because they failed to file a brief on appeal. According to defendant, because briefs were not filed by third-party defendants, "it should be taken as an admission," and she is entitled to have her case as to the Costas "summarily reversed."

Defendant's third-party complaints against the attorneys were stricken by the trial court. This court held earlier in this order that the court's striking of the third-party complaints was correct as defendant did not allege specific facts or statutory violations to support her general conclusions. Thus, the third-party complaints were legally insufficient. Because there were no third-party complaints remaining, the third-party defendants had nothing to defend against and were not obligated to file briefs in this appeal.

If this court had found the trial court in error for striking the third-party complaints, this case would have been remanded to the circuit court so that the third-party defendants could answer and present evidence. To require third-party defendants to file a brief in this appeal would have been premature. Defendant's motion for partial summary reversal is denied.

CONCLUSION

For the foregoing reasons, the judgment of the circuit court of Jackson County is affirmed.

Motion for summary reversal denied; judgment affirmed.

HOPKINS, J., with CHAPMAN and KUEHN, JJ., concurring.

Filed May 14, 1999
Louis E. Costa Clerk,
Appellate Court, 5th Dist.

No. 5-97-0540

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

MAY DEPARTMENT STORES d/b/a FAMOUS BARR, Plaintiff-Appellee,	)	Appeal from the Circuit Court of Jackson County.
v.	)	No. 95-LM-253
THERESA DOUTHITT, Defendant-Appellant.	)	

ORDER

This cause has been considered on the appellant's motion for leave to file a supplemental brief or in the alternative to amend appellant's brief, and the court being fully advised:

IT IS THEREFORE ORDERED that appellant's motion to amend her brief shall be, and the same is hereby, GRANTED.

A-22

(SEAL OF THE SUPREME COURT, STATE OF ILLINOIS)

SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

July 13, 1999

Ms. Theresa Douthitt
P. O. Box 700346
Oklahoma City, OK 73107

In re: May Department Stores d/b/a Famous Barr, respondent, v. Theresa Douthitt, petitioner.
No. 87843 (5-97-0540)

Today the following order was entered in the captioned case:

Motion by petitioner, pro se, for leave to file a petition for leave to appeal as a matter of right.
Motion Denied.

Very truly yours,
s/Juleann Hornyak
Clerk of the Supreme Court

cc: Appellate Court
Fifth District
Ms. Sharon Costa

(SEAL OF THE SUPREME COURT, STATE OF ILLINOIS)

SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

August 20, 1999

Ms. Theresa Douthitt
P. O. Box 700346
Oklahoma City, OK 73107

In re: May Department Stores d/b/a Famous Barr, respondent, v. Theresa Douthitt, petitioner.
No. 87843

Today the following order was entered in the captioned case:

Motion by petitioner, pro se, to reconsider this Court's order of July 13, 1999, denying motion for leave to file petition for leave to appeal as a matter of right instanter. Motion Denied.

Very truly yours,
s/Juleann Hornyak
Clerk of the Supreme Court

cc: Sharon Costa

(SEAL OF THE SUPREME COURT, STATE OF ILLINOIS)

SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

October 18, 1999

Ms. Theresa Douthitt
P. O. Box 700346
Oklahoma City, OK 73107

In re: Douthitt v. Jackson
Appellate Court, Fifth District,
5-98-0060

Dear Ms. Douthitt:

This will acknowledge receipt of your petition for leave to appeal on October 18, 1999.

Your petition for leave to appeal is not in compliance with Supreme Court Rule 315(c). Petitions for leave to appeal shall be limited to 20

pages excluding the appendix. You exceed the page limit by 3 pages.

It will be necessary for you to file a motion requesting leave to file your petition for leave to appeal instanter and in excess of the page limit, but not exceeding 23 typewritten pages. A copy of the motion, signed proof of served with full names and addresses of opposing counsel and proposed draft order should be forwarded to Justice Moses W. Harrison II, 333 Salem Place , Suite 170, Farview Heights, IL 62208.

Enclosed is a copy of Supreme Court Rules 315 and 361, which contain the requirements for filing petitions for leave to appeal and motions in the Supreme Court. All requirements of these rules must be met before any petitions and motions can be accepted for filing by this office.

Very truly yours,

s/Juleann Hornyak

Clerk of the Supreme Court

JH/hc
Enclosures
cc: Henry P. Villani

No. 99-

IN THE
SUPRME COURT OF THE UNITED STATES

MAY DEPARTMENT STORES d/b/a FAMOUS BARR,	)	Appellate No. 5-97-0540
Respondent,	)	
v.	)	IL S.Ct. No. 87843
THERESA DOUTHITT,	)	
Petitioner.	)	

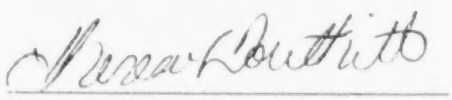
ILLINOIS SUPREME COURT RULE 19
NOTICE OF CHALLENGE TO
CONSTITUTIONALALITY
OF AN ILLINOIS STATUTE

To: Illinois Attorney General

YOU ARE HEREBY NOTIFIED that in the above-entitled cause, Petitioner, Theresa Douthitt, *pro se*, is currently challenging the constitutionality of Illinois Supreme Court Rule 13 on the grounds that it does not provide that an attorney refund

prepaid legal fees to a client upon a judge's order that the attorney may withdraw from representation in a court action. Since there is no provision for the refund of any prepaid legal fees, it constitutes a taking of property without just compensation which violates U.S. CONST. amend. V and XIV.

Dated this 5th day of February, 2000.



Theresa Douthitt, Petitioner
PO Box 700346
Oklahoma City, OK 73107
405/575-8031
Pro se